

By: West

S.B. No. 1734

A BILL TO BE ENTITLED

AN ACT

relating to status of certain documents or instruments purporting to convey title to or an interest in real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.901(c), Government Code, is amended to read as follows:

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court or a purported judicial entity not expressly created or established under the constitution or the laws of this state or of the United States; or

(B) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A);

(2) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(A) is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) is not created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property,

1 if required under the laws of this state, or by implied or express
2 consent or agreement of an agent, fiduciary, or other
3 representative of that person; or

4 (C) is not an equitable, constructive, or other
5 lien imposed by a court with jurisdiction created or established
6 under the constitution or laws of this state or of the United
7 States; ~~or~~

8 (3) the document or instrument purports to create a
9 lien or assert a claim against real or personal property or an
10 interest in real or personal property and the document or
11 instrument is filed by an inmate or on behalf of an inmate; or

12 (4) the document or instrument purports to convey
13 title to or an interest in real property and:

14 (A) a person has been convicted of an offense
15 under Title 7 or Title 8, Penal Code, for conduct with respect to
16 the document or instrument; or

17 (B) the document or instrument is the subject of
18 an owner's affidavit and certificate of mailing filed and recorded
19 in accordance with Section 5.0206, Property Code, and a
20 controverting affidavit was not timely filed for recording under
21 that section.

22 SECTION 2. Subchapter J, Chapter 51, Government Code, is
23 amended by adding Section 51.9035 to read as follows.

24 Sec. 51.9035. ACTION ON FRAUDULENT CONVEYANCE. (a)
25 Subject to Section 5.0206(c), Property Code, an owner of real
26 property who has reason to believe that a document or instrument
27 purporting to convey title to or an interest in the real property

1 and recorded in the real property records is fraudulent may
2 complete and file with the district clerk of the county in which the
3 document or instrument is recorded a motion, verified as required
4 by Subsection (c), to which the movant has attached:

5 (1) a copy of the document or instrument; and

6 (2) documentary evidence of:

7 (A) a person's conviction of an offense under
8 Title 7 or Title 8, Penal Code, for conduct with respect to the
9 document or instrument; or

10 (B) the filing and recording of an uncontroverted
11 owner's affidavit and certificate of mailing under Section 5.0206,
12 Property Code.

13 (b) A motion under Subsection (a) must contain, at a
14 minimum, the information in the following suggested form:

15 MISC. DOCKET NO. _____

16 In Re: A Purported

In the _____ Judicial District

17 Conveyance of Title

In and For _____

18 to or an Interest in

County, Texas

19 (Description of Real

20 Property)

21 Motion for Judicial Review of Document or Instrument Purporting to

22 Convey Title to or an Interest in Real Property

23 Now Comes (name) and files this motion requesting a judicial
24 determination of the status of a document or instrument purporting
25 to convey title to or an interest in real property filed in the
26 office of the County Clerk of (county name) County, Texas, and in
27 support of the motion would show the court as follows:

PRAYER

Movant requests the court to review the attached document or instrument, the attached documentary evidence, and any relevant public records and enter an order determining whether the document or instrument should be considered to convey title to or an interest in the real property described in the document or instrument, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(c) A motion filed under Subsection (a) must be verified by an affidavit in substantially the following form:

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this _____ day of _____,

_____.

1 _____

2 NOTARY PUBLIC, State of Texas

3 Notary's printed name:

4 _____

5 My commission expires:

6 _____

7 (d) A motion under this section may be ruled on by a district
8 judge having jurisdiction over real property matters in the county
9 where the document or instrument described in the motion is
10 recorded. The district court may rule on the motion based solely on
11 a review of the attached document or instrument, the attached
12 documentary evidence, and any relevant public records without
13 hearing any testimonial evidence. The court's review may be made ex
14 parte without delay or notice of any kind. An appellate court shall
15 expedite review of a court's finding under this section.

16 (e) The district clerk may not collect a filing fee for
17 filing a motion under this section.

18 (f) After reviewing the attached document or instrument,
19 the attached evidence, and any relevant public records under this
20 section, the district judge shall enter an appropriate finding of
21 fact and conclusion of law, which must be filed for recording and
22 indexed in the same class of records in which the subject document
23 or instrument was originally recorded. A copy of the finding of
24 fact and conclusion of law shall be sent, by first class mail, to
25 the movant and to the person who filed the document or instrument
26 for recording at the last known address of each person within seven
27 days after the date that the finding of fact and conclusion of law

1 is issued by the judge.

2 (g) The county clerk may not collect a fee for filing a
3 district judge's finding of fact and conclusion of law under this
4 section.

5 (h) A suggested form for a district court's finding of fact
6 and conclusion of law under Subsection (f) is as follows:

7 MISC. DOCKET NO. _____

8 In Re: A Purported

In the _____ Judicial District

9 Conveyance of Title

In and For _____

10 to or an Interest in

County, Texas

11 (Description of Real

12 Property)

13 Judicial Finding of Fact and Conclusion of Law Regarding a Document

14 or Instrument Purporting to Convey Title to or an Interest in Real

15 Property

16 On the (number) day of (month), (year), in the above entitled

17 and numbered cause, this court reviewed a motion, verified by

18 affidavit, of (name) and the document or instrument attached to the

19 motion, the other documentary evidence attached to the motion, and

20 any relevant public records. No testimony was taken from any party,

21 nor was there any notice of the court's review, the court having

22 made the determination that a decision could be made solely on

23 review of the document or instrument, the other documentary

24 evidence, and public records under the authority vested in the

25 court under Subchapter J, Chapter 51, Government Code.

26 The court finds as follows (only an item checked and

27 initialed is a valid court ruling):

1 SECTION 3. Subchapter A, Chapter 5, Property Code, is
2 amended by adding Sections 5.0206 and 5.0207 to read as follows:

3 Sec. 5.0206. OWNER'S AFFIDAVIT REGARDING PURPORTED
4 CONVEYANCE OF TITLE OR INTEREST. (a) An owner of real property may
5 file for recording in the real property records of the county in
6 which a document or instrument purporting to convey title to or an
7 interest in the real property was recorded:

8 (1) an affidavit that substantially complies with
9 Subsection (e); and

10 (2) a certificate of mailing that substantially
11 complies with Subsection (f).

12 (b) A property owner who files an affidavit under Subsection
13 (a) shall send a copy of the filed affidavit and a letter notifying
14 the grantor and grantee of the purported conveyance of the filing of
15 the affidavit by registered or certified mail, return receipt
16 requested, to the grantor and grantee's last known addresses.

17 (c) If an affidavit and certificate of mailing are filed and
18 recorded under Subsection (a) and a controverting affidavit is not
19 filed for recording in the time provided by Subsection (d), the
20 property owner that filed the affidavit may bring a motion for a
21 district court ruling under Section 51.9035, Government Code.

22 (d) Not later than the 120th day after the date a
23 certificate of mailing was filed under Subsection (a), the grantor
24 or grantee of the purported conveyance may file for recording a
25 controverting affidavit in the real property records of the county
26 in which the real property is located asserting that:

27 (1) the affidavit or certificate of mailing filed by

1 the property owner under Subsection (a) is untrue; or

2 (2) another reason exists as to why the conveyance is
3 valid.

4 (e) An affidavit filed under Subsection (a) must be in
5 substantially the following form:

6 OWNER'S AFFIDAVIT REGARDING PURPORTED CONVEYANCE

7 Before me, the undersigned authority, on this day personally
8 appeared ("Affiant(s))" (insert name of one or more affiants) who,
9 being first duly sworn, upon oath states:

10 (1) My/our name is/are (insert name of Affiant(s)).
11 I/we own the following described real property ("Property"):

12 (describe the real property)

13 (2) This affidavit is made for the purpose of
14 establishing a presumption under Section 51.901(c)(4), Government
15 Code, that the document or instrument purporting to convey title to
16 or an interest in the Property recorded in _____ (refer to
17 recording information of the conveyance) ("Purported Conveyance")
18 is fraudulent and obtaining a district court's finding of fact and
19 conclusion of law under Section 51.9035, Government Code, that the
20 document or instrument does not convey title to or an interest in
21 the Property.

22 (3) Affiant(s) have not conveyed title to or an
23 interest in the Property to any grantee other than (list any
24 interests granted).

25 Signed on this _____ day of _____, _____.

1 _____

2 _____

3 (Signature of Affiant(s))

4 State of _____

5 County of _____

6 SWORN TO AND SUBSCRIBED before me on the _____ day of
7 _____, 20__.

8 My commission expires:

9 _____

10 _____

11 Notary Public, State of Texas

12 Notary's printed name:

13 _____

14 (f) A certificate of mailing filed under Subsection (a) must
15 be in substantially the following form:

16 CERTIFICATE OF MAILING OF OWNER'S AFFIDAVIT REGARDING PURPORTED
17 CONVEYANCE

18 Before me, the undersigned authority, on this day personally
19 appeared ("Affiant(s)") (insert name(s) of Affiant(s)) who, being
20 first duly sworn, upon oath state(s):

21 (1) My name is/Our names are (insert name(s) of
22 Affiant(s)).

23 (2) On the ____ day of _____, 20__, Affiant(s)
24 caused an Owner's Affidavit Regarding Purported Conveyance to be
25 recorded in (refer to affidavit recording information)
26 ("Affidavit").

27 (3) On the ____ day of _____, 20__, Affiant(s)

1 sent a letter and a copy of the Affidavit, notifying the grantor and
2 grantee of the purported conveyance of the Affiant's ownership
3 claim and the filing of the Affidavit, by registered or certified
4 mail, return receipt requested, to the grantor and grantee's last
5 known address.

6 (4) Attached to this certificate are:

7 (A) a true and correct copy of the letter
8 described by Subdivision (3) of this certificate; and

9 (B) proof of mailing of the letter described by
10 Subdivision (3) of this certificate.

11 Signed on the day of _____, 20 _____.

12 _____

13 _____

14 (Signature of Affiant(s))

15 State of _____

16 County of _____

17 SWORN TO AND SUBSCRIBED before me on the _____ day of
18 _____, 20____.

19 My commission expires:

20 _____

21 _____

22 Notary Public, State of Texas

23 Notary's printed name:

24 _____

25 Sec. 5.0207. EFFECT OF CERTAIN COURT FINDINGS ON PURPORTED
26 CONVEYANCE OF TITLE OR INTEREST. A bona fide purchaser or a
27 mortgagee for value or a successor or assign of a bona fide

1 purchaser or mortgagee for value may rely conclusively on a
2 determination in a district court's finding of fact and conclusion
3 of law recorded under Section 51.9035, Government Code, that a
4 document or instrument does not convey title to or an interest in
5 the real property described in the document or instrument.

6 SECTION 4. This Act takes effect September 1, 2025.